

SECOND REGULAR SESSION
[CORRECTED]
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 1458
96TH GENERAL ASSEMBLY

5451L.06C

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 302.291, 320.202, 321.130, 321.162, 321.460, and 321.711, RSMo, and to enact in lieu thereof seven new sections relating to emergency services with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 302.291, 320.202, 321.130, 321.162, 321.460, and 321.711, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 302.291, 320.202, 321.130, 321.162, 321.460, 321.711, and 1, to read as follows:

302.291. 1. The director, having good cause to believe that an operator is incompetent or unqualified to retain his or her license, after giving ten days' notice in writing by certified mail directed to such person's present known address, may require the person to submit to an examination as prescribed by the director. Upon conclusion of the examination, the director may allow the person to retain his or her license, may suspend, deny or revoke the person's license, or may issue the person a license subject to restrictions as provided in section 302.301. If an examination indicates a condition that potentially impairs safe driving, the director, in addition to action with respect to the license, may require the person to submit to further periodic examinations. The refusal or neglect of the person to submit to an examination within thirty days after the date of such notice shall be grounds for suspension, denial or revocation of the person's license by the director, an associate circuit or circuit court. Notice of any suspension, denial, revocation or other restriction shall be provided by certified mail. As used in this section, the term "denial" means the act of not licensing a person who is currently suspended, revoked or otherwise not licensed to operate a motor vehicle. Denial may also include the act of withdrawing a previously issued license.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 2. The examination provided for in subsection 1 of this section may include, but is not
17 limited to, a written test and tests of driving skills, vision, highway sign recognition and, if
18 appropriate, a physical and/or mental examination as provided in section 302.173.

19 3. The director shall have good cause to believe that an operator is incompetent or
20 unqualified to retain such person's license on the basis of, but not limited to, a report by:

21 (1) Any certified peace officer;

22 (2) Any physician, physical therapist or occupational therapist licensed pursuant to
23 chapter 334; any chiropractic physician licensed pursuant to chapter 331; any registered nurse
24 licensed pursuant to chapter 335; any psychologist, social worker or professional counselor
25 licensed pursuant to chapter 337; any optometrist licensed pursuant to chapter 336; **any**
26 **emergency medical technician licensed under chapter 190; or**

27 (3) Any member of the operator's family within three degrees of consanguinity, or the
28 operator's spouse, who has reached the age of eighteen, except that no person may report the
29 same family member pursuant to this section more than one time during a twelve-month period.
30 The report must state that the person reasonably and in good faith believes the driver cannot
31 safely operate a motor vehicle and must be based upon personal observation or physical evidence
32 which shall be described in the report, or the report shall be based upon an investigation by a law
33 enforcement officer. The report shall be a written declaration in the form prescribed by the
34 department of revenue and shall contain the name, address, telephone number, and signature of
35 the person making the report.

36 4. Any physician, physical therapist or occupational therapist licensed pursuant to
37 chapter 334, any chiropractor licensed pursuant to chapter 331, any registered nurse licensed
38 pursuant to chapter 335, any psychologist, social worker or professional counselor licensed
39 pursuant to chapter 337, or any optometrist licensed pursuant to chapter 336, **or any emergency**
40 **medical technician licensed under chapter 190** may report to the department any patient
41 diagnosed or assessed as having a disorder or condition that may prevent such person from safely
42 operating a motor vehicle. Such report shall state the diagnosis or assessment and whether the
43 condition is permanent or temporary. The existence of a physician-patient relationship shall not
44 prevent the making of a report by such medical professionals.

45 5. Any person who makes a report in good faith pursuant to this section shall be immune
46 from any civil liability that otherwise might result from making the report. Notwithstanding the
47 provisions of chapter 610 to the contrary, all reports made and all medical records reviewed and
48 maintained by the department of revenue pursuant to this section shall be kept confidential
49 except upon order of a court of competent jurisdiction or in a review of the director's action
50 pursuant to section 302.311.

51 6. The department of revenue shall keep records and statistics of reports made and
52 actions taken against driver's licenses pursuant to this section.

53 7. The department of revenue shall, in consultation with the medical advisory board
54 established by section 302.292, develop a standardized form and provide guidelines for the
55 reporting of cases and for the examination of drivers pursuant to this section. The guidelines
56 shall be published and adopted as required for rules and regulations pursuant to chapter 536. The
57 department of revenue shall also adopt rules and regulations as necessary to carry out the other
58 provisions of this section. The director of revenue shall provide health care professionals and
59 law enforcement officers with information about the procedures authorized in this section. The
60 guidelines and regulations implementing this section shall be in compliance with the federal
61 Americans with Disabilities Act of 1990.

62 8. Any person who knowingly violates a confidentiality provision of this section or who
63 knowingly permits or encourages the unauthorized use of a report or reporting person's name in
64 violation of this section shall be guilty of a class A misdemeanor and shall be liable for damages
65 which proximately result.

66 9. Any person who intentionally files a false report pursuant to this section shall be guilty
67 of a class A misdemeanor and shall be liable for damages which proximately result.

68 10. All appeals of license revocations, suspensions, denials and restrictions shall be made
69 as required pursuant to section 302.311 within thirty days after the receipt of the notice of
70 revocation, suspension, denial or restriction.

71 11. Any individual whose condition is temporary in nature as reported pursuant to the
72 provisions of subsection 4 of this section shall have the right to petition the director of the
73 department of revenue for total or partial reinstatement of his or her license. Such request shall
74 be made on a form prescribed by the department of revenue and accompanied by a statement
75 from a health care provider with the same or similar license as the health care provider who made
76 the initial report resulting in the limitation or loss of the driver's license. Such petition shall be
77 decided by the director of the department of revenue within thirty days of receipt of the petition.
78 Such decision by the director is appealable pursuant to subsection 10 of this section.

 320.202. 1. There is hereby established within the department of public safety a
2 "Division of Fire Safety", which shall have as its chief executive officer the fire marshal
3 appointed under section 320.205. The fire marshal and the division shall be responsible for:

4 (1) The voluntary training of firefighters, investigators, inspectors, and public or private
5 employees or volunteers in the field of emergency response, rescue, fire prevention or
6 preparedness;

7 (2) Establishing and maintaining a statewide reporting system, which shall, as a
8 minimum, include the records required by section 320.235 and a record of all fires occurring in
9 Missouri showing:

10 (a) The name of all owners of personal and real property affected by the fire;

11 (b) The name of each occupant of each building in which a fire occurred;

12 (c) The total amount of insurance carried by, the total amount of insurance collected by,
13 and the total amount of loss to each owner of property affected by the fire; and

14 (d) All the facts, statistics and circumstances, including, but not limited to, the origin of
15 the fire, which are or may be determined by any investigation conducted by the division or any
16 local firefighting agency under the laws of this state. All records maintained under this
17 subdivision shall be open to public inspections during all normal business hours of the division;

18 (3) Conducting all investigations of fires mandated by sections 320.200 to 320.270;

19 (4) Conducting all fire inspections required of any private premises in order for any
20 license relating to such private premises to be issued under any licensing law of this state, except
21 those organizations and institutions licensed pursuant to chapter 197;

22 (5) Establishing and maintaining a voluntary training and certification program based
23 upon nationally recognized standards. A certification testing fee and recertification fee shall be
24 established by promulgated rules and regulations by the state fire marshal under the provisions
25 of section 536.024.

26 Fees collected shall be deposited into the [general revenue] **fire education fund established in**
27 **section 320.094.**

28 2. The state fire marshal shall exercise and perform all powers and duties necessary to
29 carry out the responsibilities imposed by subsection 1 of this section, including, but not limited
30 to, the power to contract with any person, firm, corporation, state agency, or political subdivision
31 for services necessary to accomplish any of the responsibilities imposed by subsection 1 of this
32 section.

33 3. The state fire marshal shall have the authority to promulgate rules and regulations
34 under the provisions of section 536.024 to carry out the provisions of this section.

321.130. 1. A person, to be qualified to serve as a director, shall be a voter of the district
2 at least one year before the election or appointment and be over the age of twenty-five years;
3 except as provided in subsections 2 and 3 of this section. The person shall also be a resident of
4 such fire protection district. In the event the person is no longer a resident of the district, the
5 person's office shall be vacated, and the vacancy shall be filled as provided in section 321.200.
6 Nominations and declarations of candidacy shall be filed at the headquarters of the fire protection
7 district by paying a ten dollar filing fee and filing a statement under oath that such person
8 possesses the required qualifications.

9 2. In any fire protection district located in more than one county one of which is a first
10 class county without a charter form of government having a population of more than one hundred
11 ninety-eight thousand and not adjoining any other first class county or located wholly within a
12 first class county as described herein, a resident shall have been a resident of the district for more
13 than one year to be qualified to serve as a director.

14 3. In any fire protection district located in a county of the third or fourth classification,
15 a person to be qualified to serve as a director shall be over the age of twenty-five years and shall
16 be a voter of the district for more than one year before the election or appointment, except that
17 for the first board of directors in such district, a person need only be a voter of the district for one
18 year before the election or appointment.

19 4. A person desiring to become a candidate for the first board of directors of the
20 proposed district shall pay the sum of five dollars as a filing fee to the treasurer of the county and
21 shall file with the election authority a statement under oath that such person possesses all of the
22 qualifications set out in this chapter for a director of a fire protection district. Thereafter, such
23 candidate shall have the candidate's name placed on the ballot as a candidate for director.

24 **5. Any director who has been found guilty of or pled guilty to any felony offense**
25 **shall immediately forfeit his or her office.**

26 **6. No person shall be qualified to serve as a director, nor shall such person's name**
27 **appear on the ballot as a candidate for such office, who shall be in arrears for any unpaid**
28 **or past due county taxes.**

321.162. 1. **In addition to the qualifications prescribed by law,** all members of the
2 board of directors of a fire protection district first elected **or appointed** on or after January 1,
3 2008, shall attend and complete an educational seminar or conference or other suitable training
4 on the role and duties of a board member of a fire protection district. The training required under
5 this section shall be conducted by an entity approved by the office of the state fire marshal. The
6 office of the state fire marshal shall determine the content of the training to fulfill the
7 requirements of this section. Such training shall include, at a minimum:

- 8 (1) Information relating to the roles and duties of a fire protection district director;
- 9 (2) A review of all state statutes and regulations relevant to fire protection districts;
- 10 (3) State ethics laws;
- 11 (4) State sunshine laws, chapter 610;
- 12 (5) Financial and fiduciary responsibility;
- 13 (6) State laws relating to the setting of tax rates; and
- 14 (7) State laws relating to revenue limitations.

15 2. If any fire protection district board member fails to attend a training session within
16 twelve months after taking office, the board member shall not be compensated for attendance at
17 meetings thereafter until the board member has completed such training session.

 321.460. 1. Two or more fire protection districts may consolidate with each other in the
2 manner hereinafter provided, and only if the districts have one or more common boundaries, in
3 whole or in part, **or are located within the same county, in whole or in part**, as to any
4 respective two of the districts which are so consolidating.

5 2. By a majority vote of each board of directors of each fire protection district included
6 within the proposed consolidation, a consolidation plan may be adopted. The consolidation plan
7 shall include the name of the proposed consolidated district, the legal description of the
8 boundaries of each district to be consolidated, and a legal description of the boundaries of the
9 consolidated district, the amount of outstanding bonds, if any, of each district proposed to be
10 consolidated, a listing of the firehouses within each district, and the names of the districts to be
11 consolidated.

12 3. Each board of the districts approving the plan for proposed consolidation shall duly
13 certify and file in the office of the clerk of the circuit court of the county in which the district is
14 located a copy of the plan of consolidation, bearing the signatures of those directors who vote
15 in favor thereof, together with a petition for consolidation. The petition may be made jointly by
16 all of the districts within the respective plan of consolidation. A filing fee of fifty dollars shall
17 be deposited with the clerk, on the filing of the petition, against the costs of court.

18 4. The circuit court sitting in and for any county to which the petition is presented is
19 hereby vested with jurisdiction, power and authority to hear the same, and to approve the
20 consolidation and order such districts consolidated, after holding an election, as hereinafter
21 provided.

22 5. If the circuit court finds the plan for consolidation to have been duly approved by the
23 respective boards of directors of the fire protection districts proposed to be consolidated, then
24 the circuit court shall enter its order of record, directing the submission of the question.

25 6. The order shall direct publication of notice of election, and shall fix the date thereof.
26 The order shall direct that the elections shall be held to vote on the proposition of consolidating
27 the districts and to elect three persons, having the qualifications declared in section 321.130 and
28 being among the then directors of the districts proposed to be consolidated, to become directors
29 of the consolidated district.

30 7. The question shall be submitted in substantially the following form:

31 Shall the Fire Protection Districts and the Fire Protection District be consolidated
32 into one fire protection district to be known as the Fire Protection District, with tax levies not
33 in excess of the following amounts: maintenance fund cents per one hundred dollars

34 assessed valuation; ambulance service cents per one hundred dollars assessed valuation;
35 pension fund cents per one hundred dollars assessed valuation; and dispatching fund
36 cents per one hundred dollars assessed valuation?

37 8. If, upon the canvass and declaration, it is found and determined that a majority of the
38 voters of the districts voting on the proposition or propositions have voted in favor of the
39 proposition to incorporate the consolidated district, then the court shall then further, in its order,
40 designate the first board of directors of the consolidated district, who have been elected by the
41 voters voting thereon, the one receiving the third highest number of votes to hold office until the
42 first Tuesday in April which is more than one year after the date of election, the one receiving
43 the second highest number of votes to hold office until two years after the first Tuesday
44 aforesaid, and the one receiving the highest number of votes until four years after the first
45 Tuesday in April as aforesaid. If any other propositions are also submitted at the election, the
46 court, in its order, shall also declare the results of the votes thereon. If the court shall find and
47 determine, upon the canvass and declaration, that a majority of the voters of the consolidated
48 district have not voted in favor of the proposition to incorporate the consolidated district, then
49 the court shall enter its order declaring the proceedings void and of no effect, and shall dismiss
50 the same at the cost of petitioners.

321.711. 1. A recall petition shall be filed with the election authority not more than one
2 hundred eighty days after the filing of the notice of intention.

3 2. The number of qualified signatures required in order to recall an officer shall be equal
4 in number to at least [twenty-five] **twenty** percent of the number of voters who voted in the most
5 recent gubernatorial election in that district.

6 3. Within twenty days from the filing of the recall petition the election authority shall
7 determine whether or not the petition was signed by the required number of qualified signatures.
8 The election authority shall file with the petition a certificate showing the results of the
9 examination. The authority shall give the proponents a copy of the certificate upon their request.

10 4. If the election authority certifies the petition to be insufficient, it may be supplemented
11 within ten days of the date of certificate by filing additional petition sections containing all of
12 the information required by section 321.709 and this section. Within ten days after the
13 supplemental copies are filed, the election authority shall file with it a certificate stating whether
14 or not the petition as supplemented is sufficient.

15 5. If the certificate shows that the petition as supplemented is insufficient, no action shall
16 be taken on it; however, the petition shall remain on file.

**Section 1. 1. For purposes of this act, the term "anemometer" means an instrument
2 for measuring and recording the speed of the wind, and the term "anemometer tower"
3 means a structure, including all guy wires and accessory facilities, on which an**

4 anemometer is mounted for the purposes of documenting whether a site has wind resources
5 sufficient for the operation of a wind turbine generator.

6 2. Any anemometer tower that is fifty feet in height above the ground or higher,
7 that is located outside the exterior boundaries of any municipality, and whose appearance
8 is not otherwise mandated by state or federal law shall be marked, painted, flagged, or
9 otherwise constructed to be recognizable in clear air during daylight hours. Any
10 anemometer tower that was erected before the effective date of this act shall be marked as
11 required in this section within one year after the effective date of this act. Any
12 anemometer tower that is erected on or after the effective date of this act shall be marked
13 as required in this section at the time it is erected. Marking required under this section
14 includes marking the anemometer tower, guy wires, and accessory facilities as follows:

15 (1) The top one-third of the anemometer tower shall be painted in equal,
16 alternating bands of aviation orange and white, beginning with orange at the top of the
17 tower and ending with orange at the bottom of the marked portion of the tower;

18 (2) Two marker balls shall be attached to and evenly spaced on each of the outside
19 guy wires;

20 (3) The area surrounding each point where a guy wire is anchored to the ground
21 shall have a contrasting appearance with any surrounding vegetation. If the adjacent land
22 is grazed, the area surrounding the anchor point shall be fenced. For purposes of this
23 section, the term, area surrounding the anchor point, means an area not less than sixty-
24 four square feet whose outer boundary is at least four feet from the anchor point; and

25 (4) One or more seven-foot safety sleeves shall be placed at each anchor point and
26 shall extend from the anchor point along each guy wire attached to the anchor point. A
27 violation of this section is a class C misdemeanor.

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